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|-----------------|-------------|----------------------|---------------------|
| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
| 05/462,691      | 01/13/00    | POLICICCHIO          | N 6553D             |

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IM62/1121

 EXAMINER

SPISICH, M

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
| 1744     | <i>8</i>     |

DATE MAILED: 11/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

|                              |                                      |  |
|------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br><b>09/482,691</b> | Applicant(s)<br><b>Policicchio et al</b> |
|                              | Examiner<br><b>Mark Spisich</b>      | Group Art Unit<br><b>1744</b>            |

Responsive to communication(s) filed on 25 Oct 2000

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 21-23, 25-27, 29, 32-35, and 61-67 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 21-23, 25-27, 29, 32-35, and 61-67 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1744

## **DETAILED ACTION**

### *Continued Prosecution Application*

1. The request filed on 25 October 2000 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/482,691 is acceptable and a CPA has been established. An action on the CPA follows.

### *Claim Objections*

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 36-42 (added in the preliminary amendment filed 25 October 2000) have been renumbered as claims 61-67 in light of the fact that there were 60 original claims.

### *Terminal Disclaimer*

3. The terminal disclaimer filed on 25 October 2000 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of USP 6,101,661 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Art Unit: 1744

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 27,29 and 32-34 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Casademunt Ferre et al (USP 5,115,535). See figure 4.

6. Claims 27,29 and 32-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Statler (USP 2,842,791). The lower surface of the pad of Statler is comprised of a bottom and two flanking side surfaces.

7. Claims 27,29 and 33 are rejected under 35 U.S.C. 102(a) as being anticipated by Brown, Jr. (USP 5,533,226). The patent to Brown discloses a cleaning implement comprising a handle (66) and a removable cleaning pad having an upper and a lower surface having multiple widths in the "z-direction" (see figure 6) and wherein the pad comprising a scrubbing layer (50) (see column 3, lines 18-25) and wherein the lower surface of the pad comprises three discrete surfaces (42,44,46) each of which are adapted to contact the surface being cleaned. The later of adhesive (64) reads on the attachment layer of claim 33.

8. Claims 27,29 and 32-35 are rejected under 35 U.S.C. 102(a) as being anticipated by Nichols (USP 5,609,255). Any object has any number of "surfaces". The claims do not define

Art Unit: 1744

the shape or configuration of these "discrete surfaces" in a manner which defines of the pad of Nichols.

*Claim Rejections - 35 USC § 103*

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 21, 23, 25, 26 and 61-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nichols (USP 5,609,255) in view of Newell (USP 4,995,133). The patent to Nichols discloses a cleaning implement (10) comprising a handle (12) and a removable cleaning pad (28) having opposite upper and lower surfaces and multiple widths in the "z-direction" and wherein the cleaning pad is comprised of an absorbent layer (32,34), scrubbing layer (36) and an impervious attachment layer (38). The patent to Nichols discloses the invention substantially as claimed with the exception of the absorbent layer comprising a superabsorbent material. The patent to Newell discloses a cleaning device having similar utility wherein the absorbent elements thereof may be comprised of any fibrous material such as rayon, cotton and polyester (see column 11, lines 24-34) which may further have incorporated therein any suitable type of super-absorbents, hydrogels which are commercially available (see column 12, lines 1-16). It would have been obvious to one of ordinary skill to have modified the absorbent layer of Nichols as such so, if so desired, to produce a single-use mop application. The particular ratios between the fibrous material and the

Art Unit: 1744

desired properties could be matched to the intended use. Again, Newell states that *any known* superabsorbent can be used. The specification of the present invention discloses what appears to be a similar embodiment. It would not have been unreasonable for one to assume that the material of Newell would have similar properties as that claimed given the fact that the composition is very nearly (if not the same) as one of the embodiments of the present invention. One of ordinary skill would deem it obvious to have modified the relative proportion of the cotton relative to the superabsorbent to arrive at the desired properties. Optimizing a prior art device through routine experimentation is not a patentable step.

#### *Response to Arguments*

11. Applicant's arguments filed 25 October 2000 have been fully considered but they are not persuasive. Applicant's only specific comment regarding any of the "102" rejections pertained to that based on Brown (USP 5,533,226). Applicant argues that Brown does not disclose both an absorbent layer *and a scrubbing layer*. Brown specifically discloses that, if so desired, an abrasive coating (50) may be applied to one of the working surfaces of the absorbent material (see column 3, lines 18-25) and thus discloses a scrubbing layer. The only other comments pertain to the combination under "103" of Nichols (USP 5,609,255) and Newell (USP 4,995,133).  
Applicant makes the point that Nichols discloses a mop which includes cleanable and reusable cleaning heads and further states that the patent to Newell discloses that the use of superabsorbent material would be for a single-use embodiment. Applicant makes the argument that the modification of Nichols in view of Newell would change to principle of operation of the device of

Art Unit: 1744

Nichols, which is generally not allowed. Most of this case law as it pertains to this issue pertains to modifications which drastically alter the mode of operation of a device. For example, the modification of an element to reciprocate as opposed to rotate. The actual mode of operation of the mop implement of Nichols, even after being modified by Newell, would still be used in the same manner. It is also believed that Newell provides sufficient motivation to one of ordinary skill to make the above-noted modification of Nichols. Newell also discloses reusable mop heads in addition to the ones which include the superabsorbent material (the single-use embodiment). This is believed to be a sufficient motivation to one of ordinary skill to use either materials in the device of Nichols depending on whether it was desired to have a single-use or reusable mop.

*Conclusion*

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (703) 308-1271.



MARK SPISICH  
PRIMARY EXAMINER  
GROUP 3400

1700

Mark Spisich

November 19, 2000